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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/985,769	11/06/2001	Keishirou Itoh	108421-00026	4407

7590 01/12/2004

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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 01/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/985,769	ITOH, KEISHIROU	
	Examiner	Art Unit	
	Joseph F Edell	3636	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2 and 4-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 14 October 2003 has been entered.

### ***Drawings***

2. The drawings were received on 14 October 2003. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,795,019 to Wieclawski.

Wieclawski discloses a head rest apparatus that includes all the limitations recited in claim 1. Wieclawski shows a head rest apparatus having a head rest frame 4 (Fig. 2) supported on a seat back frame 2 (Fig. 2) via a tilting shaft 38 (Fig. 2), an upper side (see Fig. 2) for attaching a head rest 6 (Fig. 2), a pressure receiving member 42 (Fig. 2) provided in a lower side of the tilting shaft and receiving a load applied to the front surface of the seat back wherein the head rest frame tilts forward around the tilt shaft when the pressure receiving member is exposed to the load, a stopper member 34 (Fig. 4) restricting backward tilting of the head rest frame, an urging member 40 (Fig. 2) engaging with the seat back frame and the head rest frame to always urge the head rest frame in a backward tilting direction wherein the urging member urges the headrest frame in the backward tilting direction from a rear portion of the headrest frame so as to be thrust to the stopper member, and a head rest holder 30 (Fig. 2) for mounting the head rest at an upper end of the head rest frame wherein the head rest frame is brought into contact with an upper end 26 (Fig. 4) of the seat back frame whereby back tilting of the head rest frame is restricted.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wieclawski in view of U.S. Patent No. 5,378,043 to Viano et al.

Wieclawski discloses a head rest apparatus that is basically the same as that recited in claims 2 and 4 except that the head rest apparatus lacks a cantilever urging member with left, right, and horizontal rod portions, as recited in the claims. Viano et al. show a head rest apparatus similar to that of Wieclawski wherein the head rest apparatus has a head rest frame 12 (Fig. 2), a seat back frame 22 (Fig. 2), a pressure receiving member 10 (Fig. 1), and an urging member 18 (Fig. 1) wherein the urging member is a cantilever having left and right vertical rod portions as well as a horizontal rod portion connected to the lower ends of the vertical rod portions so as to be formed in a U-shape wherein the horizontal rod portion urges the head rest frame. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the head rest apparatus of Wieclawski such that the urging member is a cantilever having a left vertical rod portions, a right vertical rod portions, and a horizontal rod portion connecting the vertical rod portions so as to form a U-shape wherein the vertical rod portions are supported on the seat back frame and the horizontal rod portion urges the head rest frame, such as the head rest apparatus disclosed in Viano et al. One would have been motivated to make such a modification in view of the suggestion in Viano et al. that the cantilever urging member allows for a head rest that moves forwardly and upwardly in the event of a rear impact situation.

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***Allowable Subject Matter***

7. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1, 2, and 4-6 have been considered but are moot in view of the new ground(s) of rejection.


***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE

January 5, 2004

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600